

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DAVID LEE HURT,

Petitioner,

v.

Civil Action No. 2:03cv80

THOMAS McBRIDE, Warden,

Respondent.

ORDER

It will be recalled that on February 24, 2005, Magistrate Judge Kaull filed his Report and Recommendation in the above-styled 28 U.S.C. §2254 action regarding the Petitioner's Motion for Leave to File Amended Habeas Petition, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. On March 4, 2005, the Court received the Petitioner's objections to the Magistrate Judge's Report and Recommendation.

Upon careful examination of the Motion for Leave to File Amended Habeas Petition, filed by the Petitioner on February 8, 2005, and upon careful examination of the report from the Magistrate Judge and the Petitioner's objections thereto, it appears to the Court that the issues raised by the Petitioner in his Motion for Leave to File Amended Habeas Petition were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Furthermore, upon consideration of the Petitioner's objections, it appears to the Court that the Petitioner has not raised any issues that were not thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of

all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this matter. Therefore, it is

ORDERED that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in whole. Accordingly, it is

ORDERED that the Petitioner's Motion For Leave To File Amended Habeas Petition be, and the same hereby is, **DENIED**.

ENTER: August 8th, 2005

/s/ Robert E. Maxwell
United States District Judge